



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Environmental Control Board Hearings

ECB Manhattan
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New York, NY 10038
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FINDING OF SUBSTANTIAL NEED FOR EARLIER IMPLEMENTATION

I hereby find, and represent to the Mayor, that there is a substantial need for the implementation, immediately upon its final publication in the City Record, of the new Office of Administrative Trials and Hearings (OATH) rules that create penalties for offenses enforcing Local Law 77 of 2015, effective August 18, 2015. These offenses relate to the registration and certification of cooling towers.

This declaration is made pursuant to Section 1043, subdivision f, paragraph 1(c) of the City Charter. Summonses alleging violations of this law are issued pursuant to Article 317, entitled "Cooling Towers" of Chapter Three of Title 28 of the New York City Administrative Code (Code). These summonses are heard and decided by the Environmental Control Board, a division of OATH, pursuant to Sections 1048 and 1049-a of the Charter and Chapter 3 of Title 48 of the Rules of the City of New York (RCNY).

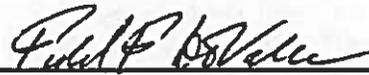
In response to an unprecedented outbreak of Legionnaires' disease in the South Bronx, the City Council promptly enacted and the Mayor expeditiously signed into law, Local Law 77 of 2015. This law became effective August 18, 2015. Section one of Local Law 77 adds a new Article 317, entitled "Cooling Towers" to the New York City Construction Codes in Chapter Three of Title 28 of the Code. This immediate implementation is essential to effectuate changes to OATH ECB's Buildings Penalty Schedule found in Section 3-103 of Subchapter G of Title 48 of the RCNY.

Local Law 77 added several new requirements in Article 317. Section 28-317.3, entitled "Registration," requires all cooling towers to be registered with the Department of Buildings (DOB) before initial operation. Owners of existing cooling towers must register their towers within 30 days of the law's effective date. Section 28-317.3.1, entitled "Discontinued use," requires owners or operators of cooling towers to notify DOB within 30 days of removing or permanently discontinuing use of a cooling tower and to include in their notice a statement that the tower was drained and sanitized in compliance with Department of Mental Health and Hygiene (DOHMH) rules for discontinuance of a cooling tower.

Section 28-317.5, entitled "Annual certification," requires owners or operators of cooling towers to certify that the cooling tower was inspected, tested, cleaned and disinfected in compliance with newly added Section 17-194.1 of the Code and the rules of DOHMH, and that a maintenance program and plan has been developed and implemented as required by such section. The owner or operator must submit the certification by November 1, 2016 and every November 1 of each year thereafter or as otherwise specified in DOB's rules. Section 28-317.7, entitled "Enforcement," makes failure to register a cooling tower or submit a certification or statement

required by new article 317 a major (also called Class 2) violation. The statutory maximum for a major violation is \$10,000.

Without this finding, the new rules implementing this legislative change may not take effect until sometime in November 2015. However, based on the seriousness of the recent outbreak and the requirement that all cooling towers be registered with DOB by September 17, 2015, there is a substantial need for bringing these rules into effect immediately upon publication in The City Record.



Fidel F. Del Valle
Fidel F. Del Valle, Commissioner
Chief Administrative Law Judge, OATH
Chairperson and Executive Director, ECB

APPROVED: Bill de Blasio

Bill de Blasio
Mayor

DATE: 9/24/15